

REMARKS

In response to the Office Action mailed March 24, 2006, Applicant respectfully requests reconsideration. To further the prosecution of this application, each of the objections and rejections in the Office Action has been carefully considered and is addressed below. The Application as presented is believed to be in condition for allowance.

Applicant acknowledges the request in the Office Action for assistance in identifying typographical errors in the specification and will correct any such errors of which Applicant becomes aware.

Objections to the Drawings

The Office Action objects to Figure 1 asserting that it should be labeled "Prior Art." Applicant submits herewith a corrected Figure 1 with such a label and respectfully requests that this rejection be withdrawn.

Rejections under 35 U.S.C. §112

The Office Action rejects claim 9-10, 23-24, 37-38, 50-51, 61, 75, and 89, under 35 U.S.C. §112, second paragraph, asserting that the phrase "the at least two software caches comprise a number of software caches is unclear" in claims 9, 23, 37, 50, and 61, and the phrase, "the plurality of software caches comprises a number of software caches," in claims 75 and 89, is unclear. Each of claims 10, 24, 38, and 51 depends from one of the above-discussed claims and is presumably rejected based on this dependency. Applicant respectfully traverses these rejections.

The phrase "the at least two software caches comprises a number of software caches" indicates that the at least two software caches includes some number of software caches, equal to two or more (e.g., two, three, four, five, etc.). The reference to "a number of software caches" is introduced in the claims to create antecedent basis for "the number of software caches" referenced in other limitations. For example, claim 9 recites an act of "modifying the number of software caches in the cache hierarchy." The phrase "the at least two software caches comprises a number of software caches" is introduced to provide antecedent basis for the phrase "the number of software

caches in the cache hierarchy.” Thus, Applicant believes the rejected claims are clear and satisfy the requirements of 35 U.S.C. §112, second paragraph. If the Examiner would like to suggest a different approach for providing antecedent basis for the phrase “the number of software caches,” Applicant is happy to consider it.

Rejections under 35 U.S.C. §103

The Office Action rejects claims 1-6, 9-13, 15-20, 23-27, 29-34, 37-41, 43-47, 50-53, and 55-96 under 35 U.S.C. §103(a) as purportedly being obvious over Sawdey (2005/0125592) in view of Iyengar (“Design and Performance of a General-Purpose Software Cache”).¹ Applicant respectfully traverses this rejection, as Sawdey does not qualify as prior art to the present application under any subsection of 35 U.S.C. §102.

The present application was filed October 1, 2003 and claims priority, as a continuation-in-part, to a parent application filed June 26, 2003. Sawdey is a United States Patent Application filed on December 9, 2003 and published on June 9, 2005. Thus, Sawdey was both published and filed after the filing date of the present application. As a result, Sawdey does not qualify as prior art under §102(a), §102(b), §102(e), or any other subsection of §102.

Because Sawdey is not prior art to this application, it is respectfully requested that the rejection of claims 1-6, 9-13, 15-20, 23-27, 29-34, 37-41, 43-47, 50-53, and 55-96 as being obvious over Sawdey be withdrawn.

¹ Page 3 of the Office Action asserts that claims 1-4, 6, 9-13, 15-20, 23-27, 29-34, 37-41, 43-47, 50-53, and 55-96 are rejected as being obvious over Sawdey (Iyengar is not mentioned), and ¶9 on pages 5-6 of the Office Action states that Iyengar is prior art of record but not relied upon. However, the substance of the rejection on pages 4-5 of the Office Action makes clear that Iyengar is indeed relied upon in combination with Sawdey in the rejection of the above-listed claims under §103. In addition, neither the Summary of the Office Action nor the list of rejected claims on page 3 addresses the status of claim 5. However, page 5 of the Office Action indicates that claim 5 is rejected under 35 U.S.C. §103(a) as purportedly being obvious over Sawdey in view of Iyengar.

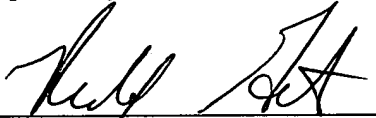
CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Dated: May 4, 2006

Respectfully submitted,

By 

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AMENDMENTS TO THE DRAWINGS

“Replacement Sheets” are attached which include a clean version of amended Figure 1 and Figures 2-11B. The attached sheets replace the original sheets including Figures 1-11B.

An “Annotated Sheet” is also attached which includes a marked-up version of Figure 1.

The Office Action noted that Figure 1 should be designated by a legend such as -- Prior Art --. This has been done. Review and approval of the proposed drawing correction is respectfully requested. Please use the enclosed “Replacement Sheets” as part of the drawings of record for this application.

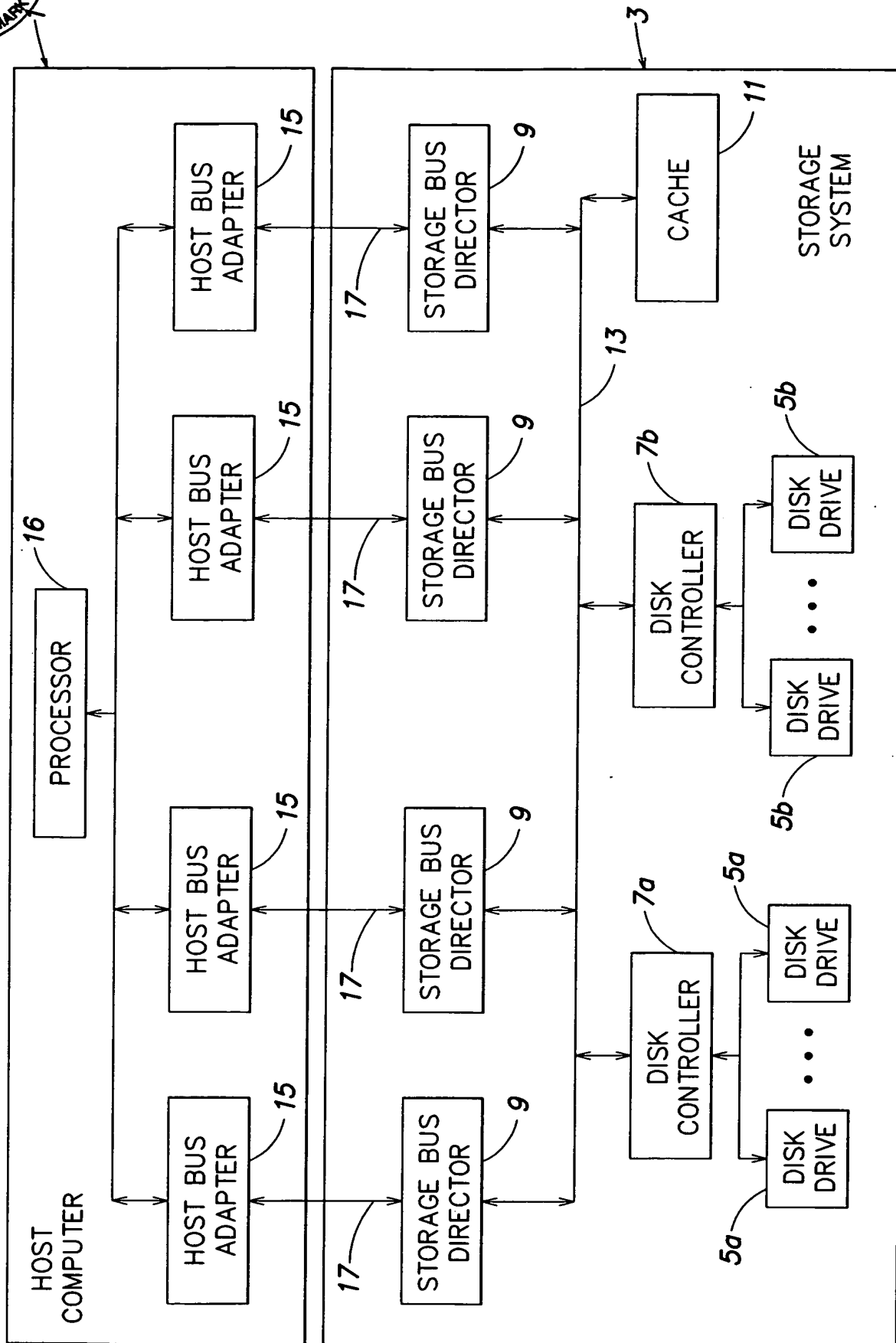


FIG. 1
(Prior Art)